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IN THE HIGH COURT OF JUDICATURE FOR RAJASTHAN
AT JAIPUR BENCH, JAIPUR

O R D E R

S.B. CIVIL WRIT PETITION NO. 5969/2001

M/S RAJENDRA SINGH & PARTY Vs. STATE OF RAJ. & ORS.

DATE: 13.09.2007

HON'BLE MR. JUSTICE K.S. RATHORE

Mr. Amit Kumar Jain for
Mr. N.C. Choudhary for the petitioner.
Mr. Brij Sharma for
Mr. R.B. Mathur for the respondents.

The Rajasthan Taxation Tribunal vide its order dated 15.10.98, while issuing notices, passed an interim order not to initiate any action against the petitioner pursuant to the impugned notice dated 11.09.98 (Annexure-1).

As per the report submitted by the Registry dated 24.07.2002, service complete upon the respondents and notice of petitioner received unserved and fresh court notices were issued. On several times, fresh notices were issued to the petitioner but the same were not served upon him.

Further as per the report of the Registry dated 03.04.2007, notice of the petitioner is received with report of process server that he has expired and a

death certificate also received along with the notice. On 27.04.2007 when the matter was placed before the Deputy Registrar (Judicial) of this Court, the Deputy Registrar perused the report of process server and the matter was ordered to be listed in the Court for orders on 04.05.2007.

On 08.05.2007, nobody appeared on behalf of the petitioner and this Court granted last opportunity to the counsel to take necessary steps, but till date no step has been taken and today also, the learned counsel appearing for the petitioner seeks time as no step has been taken for bringing legal heirs of the petitioner on record.

This writ petition is directed against the impugned notice dated 11.09.98 (Annexure-1) issued by the respondents, whereby recovery of Rs. 1,47,63,878/- has been raised.

The tender of the petitioner was allowed for the year 1989-90 and 1990-91 for contract of liquor for Nagaur-Merta. He deposited Rs. 5,95,000/- as earnest money with the tender but since he back out from the contract, therefore, the tender who gave the offer of Rs. 1,42,51,000/- was released in his name. As the petitioner back out from offer, therefore, recovery proceedings as per the provisions of law have been

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initiated and notice to this effect has been issued to the petitioner on 11.09.98, against which the present writ petition has been preferred by the petitioner.

This writ petition not only becomes abated as the learned counsel for the petitioner has not taken any steps to bring the legal heirs of the petitioner on record despite ample opportunities provided to him, but fails on merits also. After submitting tender which was accepted, the petitioner cannot back out from the same and on account of back out, loss caused to the Excise Department is recovered from the petitioner. Therefore, the impugned notice for recovery dated 11.09.98 (Annexure-1) has rightly been issued by the respondents.

In view of the aforesaid observations, the writ petition stands dismissed as having become abated.

The interim order dated 15.10.98 granted by the Rajasthan Taxation Tribunal stands rejected. The stay application also stands rejected.

(K.S. RATHORE),J.

/KKC/